

REMARKS

Claims 1-39 are pending in this application. Applicant has amended the claims via the present Amendment to better comply with the Office's requirements, correct some grammatical and other obvious errors, and to more particularly set forth the claimed subject matter.

Double Patenting

The Office has provisionally rejected claims 1-39 under the doctrine of double patenting over the claims of co-pending applications 09/704,228 and 09/900,762. The Office argues that although the claims are not identical, they are not patentably distinct from each other for the reasons listed on pages 2-3 and 9-10. Applicant respectfully traverses this rejection.

The Office focuses on the fact that there exists overlapping subject matter and that the requirement of an additional structural component does not patentably distinguish the present claims from the co-pending claims. The Office also argues that the present claims would have been obvious since the claims of the co-pending applications are for structural parts that are "specifically intended for incorporation into larger structures (e.g., vehicles)" that they would necessarily be connected to additional structure components.

Applicant respectfully disagrees. In particular, Applicant believes that the Office has mischaracterized what the co-pending claims recite. To the best of the undersigned's knowledge, the co-pending claims do not recite structural members that are "specifically intended for incorporation into larger structures" as alleged by the Office. Even if such a conclusion might be reached from the specifications of the co-pending applications, the specification of a co-pending application may not be used as a basis in a double-patenting rejection. *See M.P.E.P.* §

804. Thus, the Office has not provided any reasoning why the skilled artisan would have modified the invention recited in the co-pending claims to arrive at the structural member of the present claims.

Thus, the Office has not substantiated a sufficient basis for this ground of rejection and Applicant respectfully requests withdrawal of this rejection.

Rejection – 35 U.S.C. § 112

The Office has rejected claims 7, 10, 20, 31, and 37 under 35 U.S.C. § 112 ¶ 2 as being indefinite for the reasons listed on pages 3 and 11 of the Office Action. Applicant respectfully traverses this rejection.

The Office argues that the terms “vehicular module” and “complex shape” are indefinite. Applicant continues to disagree for the same reasons as submitted in the Amendment of December 27, 2002. Nevertheless, in an effort to expedite prosecution, Applicant has amended the claims to remove these terms.

For the above reasons, Applicant respectfully requests withdrawal of this rejection.

Rejection – 35 U.S.C. § 102(b) over Frease

The Office has rejected claims 1-2, 6-7, 10-13, 15, and 36-39 under 35 U.S.C. § 102 (b) as being anticipated by Frease (U.S. Patent No. 1,677,714), for the reasons listed on pages 4 and 12 of the Office Action. Applicant respectfully traverses this rejection.

A first group of independent claims (1, 7, 18-21, and 36) contain the limitation that the structural member contains an inner section with a continuous plurality of contoured layers and an outer section with a continuous plurality of contoured outer layers. A second group of

independent claims (31, 34- 35, and 37-39) recite a method (and resulting product) for making a structural member where the inner section containing a plurality of layers, at least one intermediate layer, and outer section containing a plurality of layers are all roll wrapped.

As to the first group of independent claims, the Office argues that Frease discloses multiple layers towards the inside and towards the outside of his middle ribbed layer in Figure 3. Such an argument, even if true, does not substantiate that Frease teaches the limitations mentioned above, e.g., a continuous plurality of contoured inner layers and a continuous plurality of contoured outer layers. Indeed, it would be difficult for the Office to show that Frease discloses such a limitation. Frease discloses that his structural member consists of a number of sheets, plates, or strips secured to each other by rivets, welding, or other fastening means. *See column 1, lines 48-54.*

As to the second group of independent claims, the Office all but admits that Frease does not teach roll wrapping by recognizing that Frease uses a vacuum bagging process. Thus, the Office has not shown that Frease teaches each and every limitation in this second group of independent claims.

For the above reasons, the Office has not substantiated that Frease anticipates the rejected claims. Accordingly, Applicant requests withdrawal of this ground of rejection.

Rejection – 35 U.S.C. § 102(b) over Jonda

The Office has rejected claims 1-2, 6-7, 10-13, 15 and 36-39 under 35 U.S.C. § 102 (b) as being anticipated by Jonda (U.S. Patent No. 4,025,675), for the reasons listed on pages 5 and 12 of the Office Action. Applicant respectfully traverses this rejection.

The independent claims currently recite a shaped, bent, or non-straight structural member comprising an inner section containing a plurality of contoured inner layers and an outer section containing a plurality of contoured outer layers. The Office, however, has not substantiated that Jonda teaches the limitations mentioned above, e.g., a shaped, bent, or non-straight structural member. Indeed, it would be difficult for the Office to show that Jonda teaches such limitations in light of the fact that Figures 1-4 of Jonda depict only straight members.

For the above reasons, the Office has not substantiated that Jonda anticipates the rejected claims. Accordingly, Applicant requests withdrawal of this ground of rejection.

Rejection – 35 U.S.C. § 103 over Frease

The Office has rejected claim 5 under 35 U.S.C. § 103 (a) as being unpatentable over Frease for the reasons listed on page 5 of the Office Action. Applicant respectfully traverses this rejection.

As noted above, the Office has not shown that Frease teaches a structural member comprising a continuous plurality of contoured inner layers and a continuous plurality of contoured outer layers. Nor has the Office argued that such a limitation is obvious in light of the teachings of Frease.

Nor is it likely that the Office can substantiate such obviousness. Frease discloses that his structural member consists of a number of sheets, plates, or strips secured to each other by rivets, welding, or other fastening means. *See column 1, lines 48-54.* Such a disclosure teaches against using a continuous plurality of contoured inner layers and a continuous plurality of contoured outer layers.

Thus, the Office has not substantiated that the skilled artisan would have considered the rejected claims obvious in light of Frease. Accordingly, Applicant requests withdrawal of this ground of rejection.

Rejection – 35 U.S.C. § 103 over Frease in view of Ohrn

The Office has rejected claims 1-24, 31-33, and 36-39 under 35 U.S.C. § 103 (a) as being unpatentable over Frease in view of Ohrn (U.S. Patent No. 6,116,290), for the reasons listed on pages 6-8 of the Office Action. Applicant respectfully traverses this rejection.

Applicant has detailed above why the Office has not substantiated that Frease teaches the limitations in the first group of independent claims. Nor has the Office argued that such a limitation is obvious in light of the teachings of Frease. Nor is it likely that the Office can substantiate such obviousness. Frease discloses that his structural member consists of a number of sheets, plates, or strips secured to each other by rivets, welding, or other fastening means. *See column 1, lines 48-54.* Such a disclosure teaches against using a continuous plurality of contoured inner layers and a continuous plurality of contoured outer layers.

As to the second group of independent claims, the Office recognizes that Frease does not teach roll wrapping, but argues that roll wrapping is a “conventional method” of forming laminated tubular structures and therefore does not represent a patentable distinction. The Office, however, has not shown that Frease is a laminated tubular structure. Indeed, it would be difficult for the Office to establish such a fact since Frease discloses that his structural member consists of a number of sheets, plates, or strips secured to each other by rivets, welding, or other fastening means. *See column 1, lines 48-54.* Thus, even if roll wrapping is a conventional method forming laminated tubular structures (an allegation which Applicant disputes), the skilled

artisan would not have been motivated to modify Frease to use roll wrapping since the Office has not shown that Frease is a laminated tubular structure.

Nor has the Office argued that limitations in the first and second groups of independent claims is taught or suggested in light of the teachings of Ohm. And is unlikely that Office can substantiate such a suggestion in light of the figures of Ohm which depict only a single inner and outer layer.

Since none of the cited references teach or suggest such a claim limitation, the Office can not substantiate the combination of the cited references suggests such a claim limitation. Thus, the Office has not substantiated that the skilled artisan would have considered the rejected claims obvious in light of Frease in combination with Ohm. Accordingly, Applicant requests withdrawal of this rejection.

Rejection – 35 U.S.C. § 103 over Cappa

The Office has rejected claims 1-24 and 31-39 under 35 U.S.C. § 103 as being unpatentable over Cappa (U.S. Patent No. 5,848,767) for the reasons listed on pages 8-9 and 12-13 of the Office Action. Applicant respectfully traverses this rejection.

As noted above, a first group of independent claims contains the limitation that the structural member contains an inner section with continuous plurality of contoured layers and an outer section with a continuous plurality of contoured outer layers. A second group of independent claims recite a method (and resulting product) for making a structural member where the inner section containing a plurality of layers, at least one intermediate layer, and outer section containing a plurality of layers are all roll wrapped.

As to the first group of independent claims, the Office recognizes on page 13 of the Office Action that Cappa forms a structural member by using separate sheets 44 of material. But the Office does not even allege—let alone argue—that the skilled artisan would have been motivated to modify the disclosure of Cappa to obtain the claim limitation discussed immediately above.

As to the second group of claims, the Office recognizes that Cappa forms his structural member using a vacuum bagging process. But the Office provides no allegation or rationale why the skilled artisan would have been motivated to use a roll wrapping process. Indeed, it is unlikely that the Office can establish such a rationale in light of the fact that Cappa discloses that the individual sheets are “applied separately and should be compacted under vacuum for at least 10 minutes.” *See column 5, lines 45-49.*

For the above reasons, the Office has not substantiated that the skilled artisan would have considered claims 1-24 and 31-39 obvious in light of Cappa. Accordingly, Applicant requests withdrawal of this ground of rejection.

CONCLUSION

For the above reasons, Applicant respectfully requests the Office to withdraw the above grounds of rejection and allow the pending claims.

If there is any fee due in connection with the filing of this Amendment, including a fee for any extension of time not accounted for above, please charge the fee to our Deposit Account No. 18-0013/40010.0009.

Respectfully Submitted,

By 
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